

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et
al.*,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

Re: ECF No. 20190-1

**DEBTORS' INFORMATIVE MOTION REGARDING LIFT STAY
NOTICES FOR THE PERIOD NOVEMBER 9, 2022 THROUGH JANUARY 6, 2023**

To the Honorable United States District Court Judge Laura Taylor Swain:

The Commonwealth of Puerto Rico (the “Commonwealth”), the Puerto Rico Sales Tax Financing Corporation (“COFINA”), the Puerto Rico Highways and Transportation Authority (“HTA”), the Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”), the Puerto Rico Electric Power Authority (“PREPA”), and the Puerto Rico Public Buildings Authority (“PBA” and together with the Commonwealth, COFINA, HTA, ERS, and PREPA, the “Debtors”), as Title III debtors, by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the Debtors’ representative

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283- LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17- BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),² respectfully submit this informative motion (the “Motion”), in accordance with Paragraph III.Q of the Case Management Procedures (as defined below), informing the United States District Court for the District of Puerto Rico (the “Court”) of the status of Lift Stay Notices (as defined below) received for the period from November 9, 2022 through January 6, 2023.

Background

1. On June 2, 2017, the Court entered an order approving certain notice, case management, and administrative procedures for the Title III cases [ECF No. 249] (as amended, the “Case Management Procedures”), which was subsequently amended on June 6, 2017 to make certain non-substantive clarifications and amendments [ECF No. 262].

2. On August 17, 2017, the Court entered an order further amending the Case Management Procedures to, among other things, implement a protocol (the “Lift Stay Protocol”) for filing motions for relief from the automatic stay set forth in 11 U.S.C. §§ 362(a) and 922(a) (the “Title III Stay”) [ECF No. 1065]. Pursuant to the Lift Stay Protocol, a movant is required to (a) send notice (a “Lift Stay Notice”) to counsel to the Oversight Board and AAFAF to advise them of the movant’s intent to seek relief from the Title III Stay at least fifteen (15) business days prior to filing a motion seeking such relief (the “Lift Stay Notice Period”) and (b) meet and confer with the Debtors during the Lift Stay Notice Period.

3. On September 13, 2017, the Debtors filed a motion to amend the Case Management Procedures [ECF No. 1299] to allow the Debtors (a) to enter into stipulations modifying or lifting the Title III Stay under Paragraph III.Q of the Case Management Procedures without further order of the Court and (b) in their discretion, to modify or lift the Title III Stay with respect to any

² PROMESA is codified at 48 U.S.C. §§ 2101-2241.

prepetition ordinary course civil action against a Debtor without the filing of a Lift Stay Notice and further order of the Court.

4. On October 24, 2017, the Court approved the Third Amended Notice, Case Management and Administrative Procedures [ECF No. 1512-1], which implemented the Debtors' requested changes to the Lift Stay Protocol and requires the Debtors to file an omnibus lift stay motion every 60 days, identifying each modification to the Title III Stay agreed to by the Debtors during the relevant period and seeking retroactive Court approval of such modifications *nunc pro tunc* to the relevant modification date.

5. The Court entered the following orders approving stipulations modifying the Title III Stay *nunc pro tunc* to the dates specified therein:

Description	ECF No.	Date
1 st Omnibus Order	2191	12/28/17
2 nd Omnibus Order	2565	2/21/2018
3 rd Omnibus Order	2945	4/23/2018
Supplement to 3 rd Omnibus Order	2988	5/1/2018
4 th Omnibus Order	3326	6/10/2018
5 th Omnibus Order	3795	8/21/2018
Supplement to 5 th Omnibus Order	3940	9/17/2018
6 th Omnibus Order	4201	11/9/2018
7 th Omnibus Order	4550	12/21/2018
8 th Omnibus Order	5146	2/15/2019
9 th Omnibus Order	6448	4/22/2019
10 th Omnibus Order	7502	6/18/2019
11 th Omnibus Order	8499	8/19/2019
12 th Omnibus Order	8877	10/16/2019
13 th Omnibus Order	9595	12/16/2019
14 th Omnibus Order	10957	2/13/2020
15 th Omnibus Order	12838	4/16/2020
16 th Omnibus Order	13404	6/11/2020
17 th Omnibus Order	14010	8/11/2020

Description	ECF No.	Date
18 th Omnibus Order	14496	10/7/2020
19 th Omnibus Order	15362	12/7/2020
20 th Omnibus Order	15784	2/1/2021
21 st Omnibus Order	16281	4/1/2021
22 nd Omnibus Order	16856	6/1/2021
23 rd Omnibus Order	18372	10/4/2021
24 th Omnibus Order	19371	11/29/2021
25 th Omnibus Order	19902	1/26/2022
26 th Omnibus Order	20454	3/28/2022
27 th Omnibus Order	20940	5/23/2022

6. The following informative motions were filed informing the Court that no approval of any stipulation modifying or lifting the Title III Stay was being sought for the applicable period:

ECF No.	Filing Date	Period
17433	7/20/2021	5/22/2021 – 7/20/2021
21483	7/12/2022	5/14/2022 – 7/12/2022
22131	9/09/2022	7/13/2022 – 9/09/2022
22825	11/08/22	9/10/2022 – 11/08/2022

7. On February 4, 2019, the Court entered an order [Case No. 17-3284, ECF Nos. 559 & 561] confirming the *Third Amended Title III Plan of Adjustment of the Puerto Rico Sales Tax Financing Corporation* [ECF No. 17-3284, ECF No. 436], which became effective on February 12, 2019. [Case No. 17-3284, ECF No. 587].

8. On January 18, 2022, the Court entered an order [Case No. 17-3283, ECF No. 19813] confirming the *Modified Eighth Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et al.* [Case No. 17-3283, ECF No. 19784] for the Commonwealth, ERS, PBA, which became effective on March 15, 2022. [Case No. 17-3283, ECF No. 20349].

9. On October 12, 2022, the Court entered an order [Case No. 17-3567, ECF No. 1415] confirming the *Modified Fifth Amended Title III Plan of Adjustment of the Puerto Rico*

Highways and Transportation Authority [Case No. 17-3567, ECF No. 1404], which became effective on December 6, 2022 [Case No. 17-3567, ECF No. 1450].

**Status of Lift Stay Notices Received
for the Period November 9, 2022 to January 6, 2023**

10. Since implementing the Lift Stay Protocol on August 17, 2017, the Debtors have received over 368 Lift Stay Notices seeking relief from the Title III Stay to prosecute various prepetition actions. With respect to the Lift Stay Notices received to date, the Debtors and their advisors, in consultation with the Oversight Board, continue to carefully review and analyze outstanding requests and seek a consensual resolution, if possible. Accordingly, for the period from November 9, 2022 to January 6, 2023, the Debtors are not seeking approval of any stipulation modifying or lifting the Title III Stay. The Debtors will file an omnibus lift stay motion, or otherwise an informative motion, in connection with the 60-day period beginning January 7, 2023 in accordance with the Lift Stay Protocol.

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WHEREFORE the Debtors respectfully request that the Court take notice of the foregoing.

Dated: January 6, 2023
San Juan, Puerto Rico

Respectfully submitted,

/s/ Ehud Barak

Martin J. Bienenstock (admitted *pro hac vice*)

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